

ESTTA Tracking number: **ESTTA614184**

Filing date: **07/07/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Financial Industry Regulatory Authority, Inc.
Granted to Date of previous extension	07/06/2014
Address	1735 K Street, NW Washington, DC 20006 UNITED STATES
Attorney information	Victoria J. B. Doyle Fried, Frank, Harris, Shriver & Jacobson LLP One New York Plaza New York, NY 10004-1980 UNITED STATES teas@friedfrank.com, victoria.doyle@friedfrank.com Phone:212-859-8383

Applicant Information

Application No	85924667	Publication date	01/07/2014
Opposition Filing Date	07/07/2014	Opposition Period Ends	07/06/2014
Applicant	Voice Proctor, Inc. 717 E. Maryland Ave. Phoenix, AZ 85014 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. First Use: 2013/05/00 First Use In Commerce: 2013/05/00 All goods and services in the class are opposed, namely: Analyzing educational tests scores and data for others; Educational examinationservices; Educational testing services;Preparing, administering, and scoring standardized tests

Grounds for Opposition

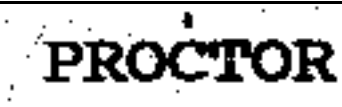
Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1768263	Application Date	10/10/1990
Registration Date	04/27/1993	Foreign Priority Date	NONE
Word Mark	PROCTOR		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1992/10/00 First Use In Commerce: 1992/10/00 training, educational testing and certification of professional and employment skills and abilities

U.S. Registration No.	1766565	Application Date	10/10/1990
Registration Date	04/20/1993	Foreign Priority Date	NONE
Word Mark	PROCTOR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1992/07/00 First Use In Commerce: 1992/07/00 computer programs for training, testing, and certification of professional and employment skills and abilities		

U.S. Registration No.	1920891	Application Date	01/22/1992
Registration Date	09/19/1995	Foreign Priority Date	NONE
Word Mark	PROCTOR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1992/07/01 First Use In Commerce: 1992/07/01 booklets, pamphlets and brochures for training, testing and certification of professional and employment skills and abilities		

U.S. Registration No.	1797000	Application Date	01/22/1992
Registration Date	10/05/1993	Foreign Priority Date	NONE
Word Mark	PROCTOR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 016. First use: First Use: 1992/07/00 First Use In Commerce: 1992/07/00 computer and facilities manuals for training, testing and certification of professional and employment skills and abilities		

Attachments	74802572#TMSN.gif(bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/vjbd/
Name	Victoria J. B. Doyle
Date	07/07/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 85/924,667
Filed May 6, 2013
For the mark VOICE PROCTOR
Published in the OFFICIAL GAZETTE on January 7, 2014

Financial Industry Regulatory Authority, Inc.,

Opposer,

Opposition No.:

v.

Voice Proctor, Inc.,

Applicant.

NOTICE OF OPPOSITION

Financial Industry Regulatory Authority, Inc. ("FINRA"), a Delaware not-for-profit corporation, having its principal place of business at 1735 K Street NW, Washington, DC 20006, believes that it will be damaged by the application filed by Voice Proctor, Inc. ("Applicant") to register VOICE PROCTOR (Ser. No. 85/924,667) (the "Application") and hereby opposes the same.

As grounds for the opposition, FINRA alleges as follows:

1. FINRA is a not-for-profit corporation that is a self-regulatory organization ("SRO") registered with the Securities Exchange Commission as a national securities association pursuant to federal law. As an SRO, FINRA is involved in the regulation of securities markets, brokerage firms and individual brokers. There are more than 4,500 FINRA member firms and 631,725 brokers. FINRA develops rules and regulations, and designs and operates marketplace services and facilities for use by investment brokerage firms and their employees, and also for use by investors.

2. For two decades, FINRA has used its PROCTOR[®] mark in connection with computer programs, training, educational testing and certification services, and also booklets,

pamphlets, brochures and manuals for training, testing and certification purposes. FINRA owns several incontestable federal trademark registrations for its PROCTOR[®] mark.

3. FINRA owns federal trademark registration Reg. No. 1768263 for the PROCTOR[®] mark, covering "training, educational testing and certification of professional and employment skills and abilities" in Class 42. FINRA's PROCTOR[®] mark has been registered since April 27, 1993, and has become incontestable. The registration was renewed on November 26, 2012. As stated in its registration, FINRA has used its PROCTOR[®] mark in connection with the specified services since at least as early as October 1992.

4. FINRA owns federal trademark registration Reg. No. 1766565 for the PROCTOR[®] mark, covering "computer programs for training, testing, and certification of professional and employment skills and abilities" in Class 9. The registration issued on April 20, 1993, and has become incontestable. The registration was renewed on April 8, 2013. As stated in its registration, FINRA has used its PROCTOR[®] mark in connection with computer programs since at least as early as July 1992.

5. FINRA owns federal trademark registration Reg. No. 1920891 for the PROCTOR[®] mark, covering "booklets, pamphlets and brochures for training, testing and certification of professional and employment skills and abilities" in Class 16. FINRA's PROCTOR[®] mark has been registered since September 19, 1995, and has become incontestable. The registration was renewed on July 12, 2005. As stated in its registration, FINRA has used its PROCTOR[®] mark in connection with these publications since at least as early as July 1, 1992.

6. FINRA owns federal trademark registration Reg. No. 1797000 for the PROCTOR[®] mark, covering "computer and facilities manuals for training, testing and certification of professional and employment skills and abilities" in Class 16. FINRA's PROCTOR[®] mark has been registered since October 5, 1993, and has become incontestable. The registration was renewed on September 8, 2013. As stated in its registration, FINRA has used its PROCTOR[®] mark in connection with these publications since at least as early as July 1992.

7. In addition to the products and services identified in its incontestable registrations, FINRA has used its PROCTOR[®] mark for a variety of other related products and services, including providing administration and delivery of computer-based testing and training; providing a variety of exams and training sessions related to areas including but not limited to skills, professional and vocational training; and for providing testing centers wherein the computer-based testing and training sessions occur.

8. Through FINRA's continuous and extensive use of its PROCTOR[®] mark for two decades for the products and services identified above, FINRA's PROCTOR[®] mark has become identified exclusively with FINRA. FINRA has developed substantial goodwill in its PROCTOR[®] mark, and the PROCTOR[®] mark has become famous and well-known.

9. By way of the opposed Application, Applicant seeks to register VOICE PROCTOR for "Analyzing educational tests scores and data for others; Educational examination services; Educational testing services; Preparing, administering, and scoring standardized tests " in International Class 41. The Application was filed well after FINRA's registrations for its PROCTOR[®] mark became incontestable.

10. The VOICE PROCTOR designation incorporates FINRA's PROCTOR[®] mark entirely, and is nearly identical in sight, sound and meaning to FINRA's PROCTOR[®] marks.

11. FINRA has not authorized Applicant's use of the VOICE PROCTOR designation, nor the Application.

12. FINRA is informed and believes, and on that basis alleges that the services identified in the Application are or would be competitive, closely related to and/or complementary with the products and services FINRA promotes and sells under its PROCTOR mark, such that purchasers and prospective purchasers would believe that Applicant's VOICE PROCTOR services emanate from FINRA or are sponsored or endorsed by FINRA, when they are not, or that there is an affiliation between FINRA and Applicant, when there is not.

13. Since the applied-for designation incorporates entirely FINRA's PROCTOR mark, and since Applicant purports to use VOICE PROCTOR for competitive, closely related or complementary services, offered or to be offered through overlapping channels to at least some of the same type of purchasers and consumers, Applicant's proposed designation is likely to cause confusion, or to cause mistake, or to deceive or disparage, by falsely suggesting a connection with or otherwise damaging FINRA. Applicant's proposed designation also is likely to cause dilution of FINRA's famous PROCTOR mark.

14. For each of the above reasons, the Application for VOICE PROCTOR should be rejected under the Lanham Act, 15 U.S.C. § 1052(d).

15. For each of the above reasons, the Application for VOICE PROCTOR should be rejected under the Lanham Act, 15 U.S.C. § 1063.

WHEREFORE, FINRA prays that Application Serial No. 85/924,667 be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of FINRA.

Dated: July 7, 2014

Respectfully submitted,

By: /Victoria J. B. Doyle/

Victoria J. B. Doyle
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Attorneys for
Financial Industry Regulatory Authority, Inc.

CERTIFICATE OF SERVICE

I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that on the 7th day of July, 2014, I caused to be served on the following, by email (with consent), a true copy of the foregoing Notice of Opposition:

Voice Proctor, Inc.

717 E. Maryland Ave.

Phoenix, Arizona 85014

Attn: Matthew Bycer

matt@nationalparalegal.edu

/Victoria J. B. Doyle/

Victoria J. B. Doyle